

STUDY OF LAW

DRAWER 4 LAW PRACTICE

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Abraham Lincoln's Law Practice

Study of Law

Excerpts from newspapers and other
sources

From the files of the
Lincoln Financial Foundation Collection

THE Atlanta Constitution has some new Lincoln stories, one of which introduces a well-known Southerner as a benefactor of Lincoln in his early days. A son of the man who enabled Abraham Lincoln to read law, and then gave him the advice which started him on his public career, was giving some interesting reminiscences recently at the Kimball, says the Constitution. The narrator was Mr. Joe Hewitt of Galveston. Mr. Hewitt is a native of Natchez and was a gallant, daring young soldier. His father, Judge Hewitt, was a native of Kentucky and removed to Illinois when a young man. He formed a law partnership with a Colonel Baker, who had been through the Mexican War, and who was killed at the head of his regiment by a Texas regiment in the fight at Ball's Bluff. Hewitt and Baker were prominent lawyers. Young Lincoln was running a small grocery store in the same town or near by. He had picked up a knowledge of surveying, and would go off for a week or a month with his compass and chain. On these trips he would leave his store in the hands of a clerk. Once he was gone four weeks. When he returned he found the store closed. His clerk had sold out and skipped with the funds. Lincoln was badly broken up. In his distress he went to Judge Hewitt for advice. Lincoln told his woes and ended by declaring that he did not know what to do.

"You would make a success at the law, Abe. Why don't you study and get admitted to the bar?" said Judge Hewitt.

"I cannot support myself and buy law books, Judge," Lincoln replied.

Turning to Colonel Baker, Judge Hewitt said: "You have no objections, Colonel, to Abe's using our library, have you?"

Colonel Baker was perfectly willing. Lincoln thought he could support himself while reading law by teaching night school, and he decided to begin the study, for the law had been his ambition.

He did teach at night and studied during the day in Hewitt & Baker's office. After he was admitted he rode the circuits with these lawyers.

"I have heard my father say," said Mr. Hewitt, "that Lincoln used to provoke them all by telling stories and singing songs at night when the rest of them wanted to go to sleep. Colonel Baker was the only one who could stop him. The Colonel would rip out some vigorous oath, and Lincoln would laugh and shut up and go to sleep."

Long before the war Judge Hewitt removed to Natchez, where he became prominent in his profession. He lost sight of Lincoln. When Quitman was first sent to Congress from Mississippi, Judge Hewitt gave him letters of introduction to some members he knew. He did not know that Abraham Lincoln was in the House, and was surprised to receive a letter from him inquiring why he had not given Quitman a letter to him. "If you have forgotten the old days in Illinois, I have not," Lincoln wrote.

When the Yankees took Natchez, they turned Judge Hewitt and his daughters out of their beautiful home, and would not allow them a single thing except the clothes they had on. The Hewitts were absolutely without shelter and personal effects, except as their friends assisted them. Adolph Meyer, a Natchez merchant, was in Washington just about that time, and he met President Lincoln, who asked him if he knew Judge Hewitt. Meyer said he did, and Mr. Lincoln told him that when he went back home he wished him to tell Judge Hewitt that if he wanted any protection to telegraph him and he should have it if all the armies in the United States were required to give it. Judge Hewitt would not ask Lincoln for any favor, and at the end of the war, when he recovered his home, it was almost a wreck. Not a single book of his library, which had been the largest and finest private one in the State, was left.

ONE day while he was a store-keeper in New Salem, Lincoln's long arm fished out of a barrel of odds and ends a copy of Blackstone's Commentaries. Over its fascinating pages he pored day after day as he lay on the ground outside his now neglected store, with his feet resting high-against the trunk of a shade tree. The volume finished, he began to borrow other works on law from a lawyer in Springfield, and people remembered in all after years the picture of the all barefoot student intently reading as he walked the 10 miles of dusty road.

1820

Before he became a lawyer, Lincoln's neighbors elected him to the Legislature, which was like a university for this unschooled man, who never had lived in a town or associated with educated people. Nevertheless he straightway became a leader of the Whigs and finally their candidate for Speaker.

There are just two items in the record of his eight years as a legislator that are worthy of remembrance—first his declaration for woman suffrage, long before that question was an issue anywhere; second, his stand against slavery, though only one other member joined him in his bold dissent from the otherwise unanimous action of the Legislature in denouncing the abolitionists instead of the lawless mobs that were persecuting them all over the North.

Lincoln's law partner also found his informality a trial. Their office was to him only a shelter and his desk a foot-rest. He wrote on his knee; he kept no books and he filed his papers in his tall stove-pipe hat until it was full, when he dumped its contents in a pile and wrote on top of the pile; "If you can't find it anywhere else, look in this."

Better than home or office he enjoyed the gypsy life of a lawyer on the circuit, over which he rode in a rattle-trap buggy to attend the courts of a dozen counties. A hearty welcome awaited him at any farmhouse where he stopped for dinner or as he alighted before the village tavern, with a queer old carpet sack in one hand and a faded green umbrella in the other; with a 25-cent, low-crowned palm hat or a high, shaggy beaver on his head and a suit of dusty, rusty, shiny, bombazine handbag on his enormous frame, the suspenders, perhaps, fastened to the trousers by sticks which he had whittled to take the place of missing buttons.

Yet this cheery, companionable man really had no companions. Those who knew him best saw only a whimsical, simple, helpful friend and neighbor, who milked his cows, bedded his horse, carried his boys pick-back in the streets, went to market with his basket on his arm or sat on a box at the foot of his office steps, telling stories to a group of street loiterers. They caught only baffling glimpses from time to time of another man who walked the street wrapped in solitude, or who brooded in his office far into the night. This was the mystic, the inner Lincoln, poet, dreamer, idealist, prophet, who pondered within the outer Lincoln and guided him on to his high duty.

LINCOLN LORE

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LINCOLN'S DECISION TO STUDY LAW

One hundred years ago this summer Abraham Lincoln decided to study law. The importance of this resolution is being realized more and more, and it stands out as one of the major conclusions of his entire life. The following excerpt from an autobiographical sketch which he prepared in the third person recalls this early decision:

"The election of 1834 came, and he was then elected to the legislature by the highest vote cast for any candidate. Major John T. Stuart, then in full practice of the law, was also elected. During the canvass, in a private conversation he encouraged Abraham (to) study law. After the election he borrowed books of Stuart, took them home with him, and went at it in good earnest. He studied with nobody. He still mixed in the surveying to pay board and clothing bills. When the legislature met, the law-books were dropped, but were taken up again at the end of the session. He was re-elected in 1836, 1838, and 1840. In the autumn of 1836, he obtained a law license, and on April 15, 1837, removed to Springfield, and commenced the practice—his old friend Stuart taking him into partnership."

Lincoln's first success at the polls took place on August 4, 1834, and it is very likely that he made the above important decision in the month of July. He had been giving the study of law some consideration as is evident from this previous statement in the same sketch, referring to an incident occurring two years before. "He studied what he should do—thought of learning the blacksmith trade—thought of trying to study law—rather thought he could not succeed at that without a better education."

It has just recently been discovered that Lincoln corrected—by making notes on the margin—a campaign biography of 1860. This statement he left undisturbed:

"The peculiar manner in which he afterward pursued his law studies, was not calculated to allay popular feeling. He bought an old copy of Blackstone one day at auction in Springfield, and on his return to New Salem, attacked the work with characteristic energy.

"His favorite place of study was a wooded knoll near New Salem, where he threw himself under a wide-spreading oak, and expansively made a reading desk of the hillside. Here he would pore over Blackstone day after day, shifting his position as the sun rose and sank, so as to keep in the shade, and utterly unconscious of everything but the principles of common law. People went by, and he took no account of them; the salutations of acquaintances were returned with silence, or a vacant stare; and altogether the manner of the absorbed student was not unlike that of one distraught."

This early appraisal of Lincoln's activities is in vivid contrast to the following tribute: Lord Shaw, a noted English legal authority, speaking before the American Women's Club in London, said that he considered Abraham Lincoln one of the five greatest lawyers of the past. The others he named were Papinian, Grotius, Duncan-Forbes, and Lord Mansfield. Certainly this statement coming from an Englishman was not made from any provincial bias, although an estimate of Lincoln's legal attainments by his own countrymen might not rate him above many other American jurists.

Abraham Lincoln's prominence as an attorney at law, however, invites a review of some of the factors which brought him to the important decision of 1834.

The first and most important contribution influencing his decision is the fact that he had an analytical and logical mind. He was an excellent mathematician, and his mastery of Pike's arithmetic in the Indiana wilderness laid a foundation for his progress in this branch of the sciences. In 1832 he learned the principles of surveying in an incredibly short time with no instructor to guide him. His ability to master Euclid in later life confirms his ability to concentrate and reason, indicating a type of mind altogether legal.

The other major factor which must have contributed much to his decision to study law was his love for the open forum. There is evidence that as a youth he entertained his companions with recitations of both a political and religious nature. The year he became of age he was pitted against two seasoned political veterans of the stump and came off the victor. When but twenty-three years old he was a candidate for the legislature of Illinois. He had doubtless observed that the best preparation for a political career in those days was the study of law and that the best practical training school for a finished speaker was the court room.

Just when the first law book was made available to Abraham Lincoln is problematical. One tradition has it that, while visiting in the home of Major Warnick during the winter of the deep snow in 1830-1831, "He got his first look at a law book." Warnick, Sheriff of Macon County, owned a copy of *The Statutes of Illinois*.

William Herndon states that when he visited Spencer County, Indiana, in 1865 in search of Lincoln data David Turnham was in possession of *The Revised Statutes of Indiana* for 1824. Turnham claimed this was "The first law book that Lincoln ever read." The original volume is now owned by William H. Townsend of Lexington, Kentucky.

Jesse W. Weik who collaborated with Herndon in his Lincoln publications reports a personal interview with John Pitcher, a lawyer who practiced at Rockport, Indiana, while Lincoln lived in Spencer County. Pitcher told Weik that Lincoln often came to advise with him about books and furthermore said, "I counseled with him and loaned him several books some of them being law books." It is claimed that Lincoln wrote his name in a two-volume set of Blackstone owned by Pitcher.

Another Herndon and Weik manuscript presents the tradition that Lincoln borrowed legal books from the library of John A. Brackenridge of Boonville, Indiana, recording that "when Lincoln caught sight of the several hundred volumes he was astonished at such a collection."

W. E. Barton was under the impression that it was a copy of "Squire Pate's big book of *Statutes of Kentucky* which gave Lincoln his first insight into law." Whether it was Warnick's *Statutes of Illinois*, Turnham's *Statutes of Indiana* or Pate's *Statutes of Kentucky* which Lincoln first devoured it is quite certain that long before he bought the copy of Blackstone at auction in Springfield he had from time to time come across books which dealt with the laws of the land.

Pitcher at Rockport and Brackenridge at Boonville are most often mentioned as having contributed something to Lincoln's decision to study law. Pitcher told Weik, "I understood he wanted to become a lawyer and I tried to encourage him." It is alleged that Lincoln told Brackenridge in Washington, D. C., in 1862 that it was after hearing him plead at a murder trial in Warwick County Court that he formed "a fixed determination to study law and make that his profession."

Over against these statements is one by Henry C. Whitney. He claimed that in 1856, while standing with Lincoln on the same spot at Decatur where the Lincoln caravan had stopped in 1830, he asked Lincoln if "at that time he had expected to be a lawyer." Lincoln's reply according to Whitney was "No, I didn't know I had enough sense to be a lawyer then."

There are many traditions extant about Lincoln's actual participation in trials. Once he is said to have been a defendant in a ferry suit, and on another occasion a legal advisor in a local dispute.

The fact that Abraham's father was continually in litigation over his land holdings in Kentucky undoubtedly caused the boy to accompany Thomas Lincoln to the court house at a very early age, and possibly some early contacts, unknown to Lincoln himself, contributed to the important decision he made in the summer of 1834.

CHANCE BUY STARTED LINCOLN IN LAW

By FREDERIC J. HASKIN
WASHINGTON, D. C., July 3.—

So overshadowing were the achievements of Lincoln in political life that his career at the bar has, perhaps, been underemphasized.

Mr. Lincoln spent 23 out of his 56 years of life in law offices and in courts and, it is asserted, what he learned from that experience served as the basis of his statesmanship.

Albert A. Woldman, an expert on the life of Lincoln, goes so far as to say that Lincoln practically bought the Presidency and enduring fame for 50 cents.

It was at that period when Lincoln was keeping store at New Salem that he bought for 50 cents a barrel of junk. In that barrel

was a battered and dogeared copy of the Commentaries of Sir William Blackstone. When it emerged from the barrel, he started to read it. Mr. Woldman further remarks that his reading of the Commentaries changed the course of history.

As Lincoln read through the hundreds upon hundreds of pages of the Blackstone tome, his horizons were pushed back.

There were no formal law schools in Illinois in Lincoln's day, but he was able to obtain other law books to read, and especially studied the Constitution of the United States and that of his own state. At 28 he was sufficiently learned in the law to be admitted to the bar.

A considerable part of his practice consisted of the work of a jurisconsult or a lawyer for other lawyers. It is an interesting thing to recall that, for a number of years, the practice of Chief Justice Charles Evans Hughes was of much the same character. He rarely appeared in court, but the lawyers who had consulted him did appear with brilliance. But Lincoln did not spend all of his time in the background. He appeared in courtrooms all over the State and thus became known. It was a group of lawyer-delegates that gained him his Presidential nomination.

His stand on secession and slavery had its legal aspect. He argued against the right of seces-

sion which southern statesmen asserted. He pointed out that when parties enter into a contract, it cannot legally be broken without consent of both parties being given, and the North had not consented to secession. On the matter of emancipation, he took the legal aspect and made every effort to effect emancipation by payment of compensation to the slave owners. He respected the protection the Constitution gives to property rights.

In every decision, during his momentous Presidency, he was guided by legal precepts. Chief Justice William Howard Taft once said that no man who ever lived would have made an abler chief justice of the United States than Abraham Lincoln!



Lincoln Lore from Dale

In the winter of 1825-26, Lincoln started to school near Dale, Indiana, but there was no one else in his classes and it soon developed that he was farther advanced than his teacher and it would do him very little good to continue. So he took a job at the mouth of the Anderson River near Troy with Taylor and McDaniel who handled produce and who also butchered hogs to send to the lower Mississippi market. Lincoln was their leading man, receiving \$.35 per day. (There is yet in existence an axe with an extra long handle and a very small pole which it is claimed on good authority to be one that Abe used to kill hogs with.)

Along with his other duties Lincoln ran a ferry across the Anderson River carrying passengers to and from Troy. One day a couple of men drove up and asked Lincoln to put them onto a steamboat coming down the river, which he did. (He often spoke of this in the White House, but did not often tell it all.) They were two Dill Brothers who had a license to ferry people and other things across from the Kentucky shore to the Indiana shore or the other way around. They enticed Lincoln over on the Kentucky side and had him brought into Squire Pate's court, a couple of miles down the Ohio for ferrying without a license. Lincoln acted as his own lawyer and asked to see their license and read it to the court. It said from shore to shore. Lincoln claimed that he only came to near the middle of the stream and did not violate the law. Squire Pate ruled in his favor and turned him loose. This made the Dills very mad and they decided to waylay Lincoln on his way home and beat up on

him. The Squire hearing of this decided to detain Lincoln a while, talking to him of the difference between the Kentucky Statutes and the Indiana Statutes till the Dills got weary and left. Lincoln later brought to the Squire a copy of the Indiana Statutes and they compared them. From this association friendship grew and Lincoln often attended the Squire's court seemingly interested in the cases.

But it seems there was another interest, for Squire Pate's wife had a niece just about Lincoln's age and she and Lincoln got quite well acquainted. There was a large orchard near the home where they often met. Lincoln said the apples that grew there were the sweetest he ever ate. Squire Pate encouraged this friendship but his wife said no, as she did not like Lincoln and insisted that the girl, Sarah Meaker, should marry her cousin, a Mr. Thresher. Sarah finally did but not till after Lincoln had gone to Illinois. We don't know very much about this romance but a grandson of one of the Dills, who ran the ferry and a grandson of Squire Pate and a niece of Mrs. Pate are still living and all know about it. Squire Pate's and Sarah Meaker's tombstones stand in a little cemetery near the house.

The picture is of Squire Pate's house. It was a large log house but has since been weather-boarded. The open door behind the boy is to the room in which Lincoln was tried. This story has only been printed in a couple of the many Lincoln books.

Sixty-five per cent of the grade crossing accidents last year involved trains going less than 30 miles an hour or standing still, the National Safety Council reports.

Fort Wayne —

A Chairman In Trouble

Here, fellow brethren, is what turns this would-be columnist's hair gray. From the grapevine I learn that our illustrious program committee held a little meeting up at the country home of ye program chairman the other day. Games were played (more of that later) food was served, the melarky was man-handled and lastly programs were discussed and when all the smoke clears away and I try to find out what I can tell you birds about the program, here's what I get: This is for the meeting tomorrow—Speaker of the day—Dr. Myron L. Pontius. Subject—not announced—History of the speaker—the Dr. is from Ashly, Indiana, and served temporarily at the Plymouth Congregational Church—Period. Now, I ask you—is such a thing fair? Of course, with Dr. Pontius there is no need of my elaborating at all for the great majority of you are acquainted with Dr. Pontius' fine lectures as he has appeared before us in the past. I know he will bring a very fine address to us and one that you can't afford to miss. But, isn't that a heck of a way for the program committee to treat a guy?

Terre Haute

DOPE BUCKET IS FULL AGAIN.

Doc Morrison is "it" this month and he comes right up with one he did not get out of a book but straight from the heart, engraved there from 25 years of faithful attendance.

Says he, "Kiwanis a meet, eat, belch and adjourn club? That is exactly what it is an much more!

"Kiwanis is SPIRIT. That is why it is growing in the hearts of men and can never die.

"It is the very best of the universal spirit, linking with and together the very best that is in man."

(He went off the deep end that time!)

He concludes with: I'll see you LATE."

New Castle

Outstanding 4-H Fair and every Kiwanian who attended can truthfully say that money spent in sending boys and girls to the Junior Leaders Round-Up is a very fine investment and pays big dividends.

To assure future leadership on, the farms and life in our cities, our job is to help guide and encourage these boys and girls.

We're building men and building America strong.

About six of the distressed youth's sympathizing friends coaxed him to accompany them to Springfield, where other events chased away much of his grief and turned him toward the study and practice of law. There was one "dressy" man among the six jovial Salemites. He purchased a broadcloth coat before leaving Springfield for home, which was the first coat of that cloth seen in Old Salem. While fooling with a group around a burning candle the dandy's broadcloth coat came in contact with the flame, burning quite a hole in the much-talked about garment. The belligerent apple-jack and other aggravating circumstances would have caused a lively fist-fight then and there if young Lincoln hadn't effected a satisfactory compromise. It was agreed to run the dispute through the Salem justice mill, that Lincoln should plead the coat-owner's and coat-burners' sides of the case, and that the winner should pay the costs and drinks for all present in court. The mock court opened twenty minutes after the interested parties reached Salem. The mill was crowded with eager spectators before the case was prosecuted and defended by the lawyer for each side. The rustics marveled much at Lincoln's knowledge of law, his common sense, his impregnable logic, and his serio-comic stories. He gained the case for both his clients; apple-jack was supplied the lot, and everybody present wondered and asked young Lincoln: "Why don't you become a lawyer?" He answered their question by becoming one.

HIS FIRST TASTE OF LAW.

Two Stories of Lincoln Told by Artist A. J. Conant.

Mr. A. J. Conant, the artist, has given some interesting reminiscences of Lincoln gathered while Lincoln was sitting to him for his portrait. The first time Mr. Conant visited Mr. Lincoln for this purpose he found the expression upon his face quite the reverse of the melancholy and serious one he had supposed he wore. It was so bright, animated and genial that Mr. Conant at once made up his mind to depict it if he could. With this in view it was his custom to tell humorous stories, which, when they touched Mr. Lincoln's fancy, made him forget for the time his absorbing affairs.



FORGOT FOR THE TIME HIS ABSORBING AFFAIRS.

One day Mr. Lincoln told how, when "running," as he termed it, his grocery store at Salem, near Springfield, he got his first taste for law. A farmer drove up with a broken down horse and a wagon filled with household "plunder," and asked him what he would give "for the hull load." Lincoln looked over the lot of old pots, pans, kettles and stuff, and gave him half a dollar. The man went off and Lincoln stored the stuff. Some weeks after the purchase Lincoln had occasion to use one of the barrels, which were filled with some of the old "truck" bought in the fifty cent purchase, and as he turned out the contents of one of them, under the old rusty pans a dilapidated copy of "Blackstone's Commentaries" came to light. Lincoln eyed it curiously and laid it aside.



HE READ CONSTANTLY.

Later in the afternoon he picked the book up and began to read. He soon became absorbed in it, and from that day on he read all the long leisure hours which fall to the lot of the country grocer. This was the first inkling he had of any taste in the direction in which he afterward attained such success.

This story Lincoln had twice tried to tell, once from the rear of a train, and was carried away by it before he got to the point, and a second time, when present at a gun testing, when the gun was fired just as he reached the Missourian's reply.

Another story the artist told was one which he said he had himself told Lincoln and which he had used on several occasions, on two of which he had been interrupted before he got to the point, "and," said the artist, "if there was anything which annoyed Mr. Lincoln it was this. It caused him to always remember the man from whom he got the story. The story was of a Missouri man who went to a stable to get a horse to take him to a convention to which he was going as a delegate with a hope of nomination.

The stable keeper was of a different political persuasion, and gave him a horse which he calculated would break down before he got there. His calculations proved true, and the man lost the nomination. On his return to the stable the disappointed Missourian asked the stableman if he was training that horse for a hearse. The man said: "Kinder guessed he wasn't." "Well," said the man, "if you are he'll never do it, for he wouldn't get a corpse to the cemetery in time for the resurrection."

BEGINNINGS IN LAW AND POLITICS



AFTER finding a set of "Blackstone" in an old barrel he had bought of a traveler who did not care to keep it longer, Lincoln began to study law in the "university of adversity." As a boy he had enjoyed the "Revised Statutes of Indiana" when nothing better to read was at hand. At one time he had yearned to be a deckhand on the Ohio, and even thought seriously, at several points in his career, of learning the blacksmith's trade, but that "Blackstone" proved a "treasure trove" to him and exerted a providential influence upon his life. While in the Black Hawk War he met Major John T. Stuart, of Springfield, with whom he was afterward associated in the State Assembly. Stuart advised and aided Lincoln in his law studies, lending him books, and finally offering to take him

into partnership as soon as he could be admitted to the bar.

Of course the popular and public spirited young law student took to politics "as a duck takes to water." He was diffident and disparaged his own qualifications, but his friends advised him to "go in and win." Schoolmaster Graham suggested that he would better study grammar, so he walked six miles, borrowed Kirkham's, and came back before breakfast, having learned his first lesson, *six miles long*, or all the way back. His first political speech was as follows:

FELLOW-CITIZENS: I presume you all know who I am. I am humble Abraham Lincoln. I have been solicited by many of my friends to become a candidate for the Legislature. My politics are "short and sweet, like an old woman's dance." I am in favor of a national bank. I am in favor of the international improvement system, and a high protective tariff. These are my sentiments and political principles. If elected I will be thankful. If not, it will be all the same.

It was "all the same," for the Black Hawk War came up, and Lincoln's patriotism got the better of his self-interest, so he enlisted and was defeated by the Rev. Peter Cartwright, the backwoods Methodist preacher, by a small plurality. But he was elected two years later and was re-elected many times to the State Assembly, in which he became the leading spirit of "the Long Nine," who accomplished the removal of the State capital from Vandalia to Springfield.

One time the young lawyer from New Salem was invited to address a political meeting in Springfield. Mr. George Forquer, a wealthy and pompous resident of Springfield, who was said to have changed politics to get a fat land office, took it upon himself to humble the young upstart from the country. Lincoln had noticed a lightning-rod on Forquer's fine house, the first thing of the kind that had ever been seen there. So the young man from New Salem arose, a little pale, but with a smile and a significant glitter in his eye, and replied:

"The gentleman commenced his speech by saying that this 'young man,' alluding to me, must be taken down. I am not so young in years as I am in the tricks and trades of a politician, but," said he, pointing to Forquer, "live long or die young, I would rather die now, than, like the gentleman, change my politics, and with the change receive an office worth three thousand dollars a year, and then feel obliged to erect a lightning-rod over my house to protect a guilty conscience from an offended God."

Forquer's lightning-rod could not save his political future from being blasted by that thunderbolt.



His first lesson, six miles long



